

**CLEAN VESSEL ACT OF 1991 AND IMPLEMENTA-
TION OF THE SPORT FISH RESTORATION PRO-
GRAM**

HEARING
BEFORE THE
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT
OF THE
COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES
ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

H.R. 1297

**A BILL TO AMEND THE DINGELL-JOHNSON SPORT FISH
RESTORATION ACT TO AUTHORIZE THE USE BY
COASTAL STATES OF APPORTIONMENTS UNDER THAT
ACT FOR CONSTRUCTION, RENOVATION, AND MAINTE-
NANCE OF SHORESIDE PUMPOUT STATIONS FOR
MARINE SANITATION DEVICES**

MAY 9, 1991

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CLEAN VESSEL ACT OF 1991 AND IMPLEMENTATION OF THE SPORT FISH RESTORATION PROGRAM

THURSDAY, MAY 9, 1991

**HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES
AND WILDLIFE CONSERVATION AND THE ENVIRONMENT,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,**

Washington, DC.

The subcommittee met, pursuant to call, at 10:10 a.m., in Room 1334, Longworth House Office Building, Hon. Gerry E. Studds (chairman of the subcommittee) presiding.

Members present: Representatives Studds, Hochbrueckner, Laughlin, Anderson, Reed, Young, Coble, Gilchrest, and Doolittle.

Staff present: Tom Kitsos, Dan Ashe, Lee Crockett, Jim McCallum, Gina DeFerrari, Rod Moore, Joyce Sacco, Jeff Pike, George Pence, Tom Melius, Jill Brady, and Bill Woodward.

OPENING STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. STUDDS. The subcommittee meets this morning to discuss H.R. 1297, the Clean Vessel Act of 1991, and to review the implementation of the Sport Fish Restoration Program.

The Clean Vessel Act was introduced by Mr. Jones, the distinguished Chairman of our full committee, for the purpose of encouraging the construction of sewage pumpout facilities at marinas. The need for the bill stems from the fact that although boaters may leave their worries and troubles behind when they put out to sea, they tend to bring their digestive systems along. Sewage, like death and taxes, is inevitable. The question is what to do with it. Dumping it directly into the ocean is, for good reason, illegal. Treating it prior to discharge is legal, but expensive. Bringing it back to shore, where it can receive the treatment it really deserves, is often not possible due to the lack of adequate pumpout facilities.

Federal regulations govern the operation and design of what the bureaucrats call marine sanitation devices on boats with installed toilets. These devices range from those with relatively sophisticated chemical treatment capabilities to the so-called Type III devices, which are essentially holding tanks. Unfortunately, the effectiveness of the regulations has been undermined by low levels of compliance and enforcement, lack of public awareness, and lack of

dockside pumpout facilities capable of receiving wastes generated offshore.

Marine pollution from recreational and small commercial vessels is not only unsightly, it is unhealthy and damaging to local economies as well. A 1988 study by the Cape Cod Planning and Economic Development Commission found that marine head discharges are a significant source of pollution in Cape Cod Bay and a contributing factor to the closure of shellfish beds and declining water quality. The Chesapeake Bay Commission has expressed concern about the potential impact of this pollution on the health of swimmers and requires the immediate closure of shellfish waters where evidence of discharges is found. North Carolina, among other States, prohibits the harvesting of shellfish in areas close to marinas.

H.R. 1297 requires that a small portion of the money that States receive from the Sport Fish Restoration account be used to construct pumpout facilities. This account has grown rapidly in recent years as a result of increases in the Federal tax on gasoline. It is argued, as a result, that funds can be made available for this purpose without preventing States from undertaking needed boating access and fisheries enhancement projects as well.

The purpose of the legislation is to contribute, albeit in a modest way, to the fight against coastal pollution. Our witnesses this morning will help us decide whether we have chosen an appropriate means for making progress towards that inarguably important goal, and whether other changes in the Sports Fish Restoration program might be desirable at this time.

[Statement of Mr. Jones follows:]

STATEMENT OF HON. WALTER B. JONES, A U.S. REPRESENTATIVE FROM
NORTH CAROLINA

Mr. Chairman, first I would like to thank you for holding a hearing on H.R. 1297, the Clean Vessel Act of 1991. The problem of sewage discharged from vessels first came to my attention last summer when I read a series of articles in two North Carolina newspapers regarding the lack of pumpout stations for boats to properly discharge their sewage.

An investigation by my staff determined that, of the approximately 250 marinas in North Carolina, only 20 have pumpout stations. In addition, concerns over sewage from boats has prompted the State of North Carolina to automatically close shellfish beds surrounding marinas.

In an effort to combat this problem, the State Coastal Zone Management Agency requires the construction of a pumpout facility as a condition for a permit to construct or expand a marina. While this program is a good first step, it does not get at the large number of existing marinas which do not plan to expand. Further investigation by my staff revealed that there are inadequate pumpout facilities in Chesapeake Bay, Buzzards Bay, Massachusetts Bay, and Puget Sound. Therefore, I introduced H.R. 1297 in an effort to spur the construction of pumpout stations at existing marinas in North Carolina and any other coastal State where there is a need.

H.R. 1297 directs that each coastal State spend 5 percent of its Wallop-Breaux allocation on the construction, renovation, and maintenance of shoreside pumpout stations in fiscal years 1992 through 1995. My proposal will allow coastal States to tailor this set-aside by allowing them to petition the Fish and Wildlife Service and the EPA for a waiver or reduction of the five percent set-aside if: 1) sewage from vessels does not degrade water quality in the State; 2) there are adequate pumpout stations in the State; and 3) it can meet its pumpout construction requirements with less than five percent.

Some may say that my proposal will adversely impact State sport fish restoration programs. In my opinion, this is not true for two reasons. First, if every coastal State used the entire five percent set-aside, it would only amount to \$7.3 million per year. For perspective, the Fish and Wildlife Service estimates that there will be about \$220 million available for State sport fish restoration projects in fiscal year

1992. Second, the recent increase in the Federal gasoline tax has resulted in an approximately \$37 million increase in the amount of money available to States for sport fish restoration. Diverting \$7.3 million will mean that the States will get a slightly smaller *increase* in the money available for sport fish restoration. Will an unanticipated increase of only \$29.7 million instead of \$37 million adversely impact State sport fish restoration programs? I don't think so.

I am, however, aware that there are legitimate concerns with some provisions of my bill. In particular, there is concern that the waiver provision in the bill may be a problem and that H.R. 1297 will result in the construction of unnecessary pump-out stations. This is certainly not my intent and I am willing to work with all interested parties in an effort to develop a program which will only direct funds to areas where there is a need to build pumpout stations.

Let me conclude by welcoming our witnesses this morning and saying that I look forward to hearing their testimony.

Mr. STUDDS. The distinguished gentleman from Alaska.

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA

Mr. YOUNG. Thank you, Mr. Chairman. I want to join you in welcoming the witnesses who will be appearing before us today. While I wish to compliment the Chairman of the full committee for the work he has done in trying to promote cleaner waters through the introduction of this bill, I believe that Members should be aware that some States are very uncomfortable with the proposals made in the bill.

For example, my State of Alaska already dedicates a great deal of funding to vessel pumpout facilities where they are needed. In fact, the Commissioner of the Department of Environmental Conservation has indicated that pollution from vessels is not a problem in Alaska. I therefore hope the Chairman will agree to make modification to the bill which will more easily allow States to exempt themselves from requirements in cases where States do not have a problem. I look forward to working with you and the rest of my colleagues on this bill and to listen to testimony today. Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from Maryland.

STATEMENT OF HON. WAYNE GILCHREST, A U.S. REPRESENTATIVE FROM MARYLAND

Mr. GILCHREST. Thank you, Mr. Chairman. I want to thank you for this hearing on H.R. 1297, the Clean Vessel Act of 1991. It deals with a subject of great importance to my district. Most of the boating in Maryland occurs in the Chesapeake Bay and its tributaries. The disposal of human waste produced aboard boats operating in the Chesapeake Bay degrades the Bay's quality. The sewage discharges from this problem must be reduced and eventually, if at all possible, eliminated. They harm human health, they dissolve oxygen making survival for aquatic organisms more difficult, and, lastly, they encourage the growth of algae.

The reason this bill is important is that these polluting discharges are totally controllable. Boat operators with MSDs have a choice of pumpout facilities that are accessible. They do not have to pollute our waterways. Maryland needs many more MSD pumpout facilities. The State has 26,861 boats 26 feet or longer, most of which are equipped with MSDs. We have over 450 marinas in the Chesapeake Bay region but only 53 pumpout stations. However, the

State of Maryland has an innovative new program to support the construction of pumpout facilities. They will reimburse marina owners up to \$10,000 to install a pumpout station. More than 106 marinas have signed up to participate in this reimbursement program.

One final but encouraging note. The Maryland Department of Natural Resources is planning support for the use of pumpout stations. The Department recently sent a detailed survey to 152,000 boat owners in Maryland. To their surprise, over 37,000 responded to the survey. While the survey is not concluded, the initial analysis suggests support for the pumpout program.

Mr. Chairman, again I want to thank you for calling this hearing, and I look forward to the testimony.

Mr. STUDDS. Thank you. I say to the witnesses I understand that you understand our need to confine everyone's oral presentation to five minutes. You may have had the light system explained to you. Are the lights working this morning? Oh, wonderful. When the yellow light goes on, you have one minute left. When the red light goes on, you are finished. We will go in the order in which you appear here, beginning with Mr. Conley Moffett of the Fish and Wildlife Service. Mr. Moffett.

STATEMENT OF CONLEY MOFFETT, DEPUTY ASSISTANT DIRECTOR FOR FISH AND WILDLIFE ENFORCEMENT, U.S. FISH AND WILDLIFE SERVICE

Mr. MOFFETT. Good morning, Mr. Chairman. I am Conley Moffett, Deputy Assistant Director for the U.S. Fish and Wildlife Service, with responsibility for administration of the Sport Fish Restoration Program. I am pleased to be here to testify on H.R. 1297.

Although we support efforts to improve and maintain water quality, we do not support passage of this bill. The construction and operation of pumpout facilities are already eligible activities under existing Sport Fish Restoration Program authorities, and we encourage the States to include them in boating access proposals.

The Service is committed to improving the Nation's water quality. One of our major thrusts is the protection of coastal wetlands. By far, the most significant and consistent demonstration of the protection of coastal habitats and resources has come from the States through the Sport Fish Restoration Program.

With respect to the questions raised in your letter of invitation, Mr. Chairman, we are unable to provide a judgment as to whether the lack of pumpout facilities has degraded coastal waters or whether enactment of H.R. 1297 would improve the quality of those waters.

With respect to the advantages and disadvantages of funding pumpout facilities at private marinas, the obvious advantage is that pumpout facilities would be available to a larger group of boaters. The disadvantages are logistical and administrative, such as establishing compliance procedures for a Federal grant-in-aid requirement such as handicap access, ensuring that marina owners provide public access to these facilities, and establishing State administrative and fiscal procedures to account for the expenditures of funds and receipts.

For example, who would purchase and own the equipment and to what set of standards? Who would determine reasonable fee schedules for the use of these facilities? And who would be the recipient of such fees? An overriding question relates to the matching fund requirement; whether or not it is the intent to require the State or private marina owners to provide the match.

As for the issue of avoiding the building of unnecessary pumpout facilities, we are not sure if the waiver requirement included in this bill would cause the States undue problems with compliance. We have consulted with the State of Michigan, which was granted a waiver in 1976 by EPA. Michigan informs us that the key to the issuance of the waiver was that State legislation contain standards that met or exceeded Clean Water Act requirements. A memorandum of agreement between the Department of the Interior and EPA will need to be promulgated in order to establish procedures for the Secretary to grant a waiver to the States that have documented that the three criteria, as specified in the bill, are being met.

Concerning the equitable allocation of funds between freshwater and marine projects as required by the 1988 amendment to the Sport Fish Restoration Act, we have examined the obligation of funds by selected States on all three coasts, as requested by your staff. All of these States are obligating funds between freshwater and saltwater projects in accordance with guidance provided by the Service.

As to whether the States should be encouraged to use increased funds for specific types of projects, we remain convinced that the success of this grant-in-aid program is due to the fact that the States, within program guidelines, are free to determine their own priorities. We are providing, for the record, documentation of State expenditures of Sport Fish Restoration Act funds for 1990 that indicates the needs of the Nation's recreational anglers and boaters are being met. We believe that creating mandatory expenditure categories would inhibit the States from responding to the specific needs of their constituents and aquatic resources.

Finally, we do not support the use of Sport Fish Restoration account administrative funds to compile harvesting data for marine recreational fisheries. Under the Magnuson Fishery Conservation and Management Act, the responsibilities for compiling such data rests with the National Marine Fisheries Service. It has been the policy of the Service not to fund the operational activities of a Federal agency with Federal Aid administrative dollars, because we believe that would be contrary to the intent of the law and could be construed as a circumvention of the appropriations process.

Mr. Chairman, thank you for the opportunity to testify on these issues. I will be pleased to answer any questions you might have.

Mr. STUDDS. Thank you, sir.

[The prepared statement of Mr. Moffett can be found at the end of the hearing.]

Mr. STUDDS. Mr. Vogt, I understand you don't have a formal statement. You are just available to answer questions. Is that correct?

Mr. VOGT. That is correct.

Mr. STUDDS. Very good. I forgot to ask unanimous consent that Chairman Jones' remarks appear at the beginning. Without objection, they will. Mr. Max Peterson of the International Association of Fish and Wildlife Agencies. Mr. Peterson.

**STATEMENT OF MAX PETERSON, EXECUTIVE VICE PRESIDENT,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGEN-
CIES**

Mr. PETERSON. Thank you. Good morning, Mr. Chairman.

Mr. STUDDS. Good morning.

Mr. PETERSON. You have my statement in full. I could brief it if that would help expedite things.

Mr. STUDDS. We would be ecstatic.

Mr. PETERSON. Thank you, Mr. Chairman. As you know, the International Association of Fish and Wildlife Agencies represents the 50 State fish and wildlife agencies, so my testimony today reflects their views.

In trying to answer the questions that you posed as they relate to H.R. 1297, the Clean Vessel Act, we have to admit that we simply do not have adequate information to assess the situation in all 50 States. Many States have approached it differently such as the State of Maryland, that has just been mentioned. Maryland has used innovative things such as pumpout stations mounted on barges. We would want any legislation to at least allow a wide range of solutions to this problem and not just specify a single solution of shore pumpout facilities.

Some States, such as the State of Alaska, as has just been indicated by Congressman Young, have a quite different situation. Alaska has a large mixture of fishing boats and pleasure boats, and any approach to solving the sewage disposal problem has to handle all kinds of boats and not just pleasure boats.

Mr. Chairman, we have discussed this with the committee staff, and we have agreed to do a survey of the States. We will develop a survey form, check it with the staff, and the American League of Anglers and Boaters. We will secure information from the States and then further discuss solutions that might be appropriate.

Some of our concerns, for example, are we are not sure how many States have laws that require the use of pumpout facilities when marine sanitation devices are installed. In the absence of laws, we are not sure how effective it would be to provide facilities. There is also a question of what percentage of the boats out there have devices that could use pumpouts, or whether some other approach would be necessary.

Let me now make a few observations about Wallop-Breaux in general and then further address your questions. Mr. Chairman, I think, as you know, one of the reasons that the Wallop-Breaux program has been so successful is it has been flexible to adapt to the needs of a particular State.

The report of the State of Massachusetts that was issued for 1990 and 1991, for example, indicates that projects range from anadromous fish investigations, to marine fisheries management investigations, to boating access construction and enhancement, marine fisheries research and administration, construction of public access

fishing piers. Several of those fishing piers now have special facilities for handicapped, so one of the secrets of the success of the Wallop-Breaux program in our view has been the flexibility of each State to adapt it to their particular conditions. And States do now and can now use the fund to provide sanitary facilities, if that is a problem in their area and if it is a priority. And they can also coincide it with other types of ongoing activities of EPA or of local pollution control districts.

Let me also, Mr. Chairman, defer to Vice Chairman Veronica Floyd of ALAB who will present some recommendations from the American League of Anglers and Boaters when I conclude my testimony, that will indicate some suggestions that we are in agreement with on the future distribution of funds.

On the specific questions that you raise, I have already indicated that we simply don't have enough data to know for sure whether the approach specified in the bill would be the best one. We are not at all sure whether five percent is an appropriate amount. We are always concerned with the one-size-fits-all approach to earmarking funds for a State. We are also concerned about the waiver mechanism. Frankly, when you have two cabinet officers concerned with granting a waiver and as a part of that waiver provision requiring a positive finding that there is no pollution left, we doubt that there would be any waivers granted in the foreseeable future. And so we are concerned about the difficulty of that waiver mechanism working.

Finally, Mr. Chairman, for the distribution of the increased money from the gasoline tax, we support the American League of Anglers and Boaters' suggestions. Thank you.

Mr. STUDDS. Thank you very much, sir.

[The prepared statement of Mr. Peterson can be found at the end of the hearing.]

Mr. STUDDS. Next, Mr. William Keene, President of Edson International. Mr. Keene, welcome.

STATEMENT OF WILLIAM KEENE, PRESIDENT, EDSON INTERNATIONAL

Mr. KEENE. Mr. Chairman, thank you for the opportunity to testify before you and your subcommittee today. I would like to start off my testimony today by telling you the story of "it," a famous two-letter word. It is something that all of us do. It is not a frequently discussed topic. It happens every day or night. Men, women, and children do it. It knows no racial or ethnic boundaries. The rich, the poor, the middle class all do it. It is rarely done in public. It has been happening since the beginning of time. It has no commercial value. It pollutes. And every one of us has a responsibility to properly dispose of it.

As President of the Edson Corporation, we have a fairly unique perspective on this subject. Our company was founded in 1859 by a gentleman who invented the diaphragm pump. Its sole use at that time was pumping waste, and we continue to do that as part of the job of an Edson pump. We are actively involved in it.

As an active striped bass fisherman, a member of the American Littoral Fish Tagging program, and a lifetime recreational boater

and former boat builder, I was involved with the company when you passed a law that required every boat have a holding tank installed on it. And those holding tanks were intended to be used. Unfortunately, all that happened was that you increased the sales of Y-valves. The reason the Y-valve came into being was because there were no facilities for emptying a holding tank. And no boater will fill up a holding tank unless he has the means to pump it out.

Now, I had no personal experience until three years ago emptying a holding tank on a boat. And it wasn't until I went into Great Salt Pond and Block Island and was required to use a holding tank that I came to the realization that using a holding tank and having it emptied was neater, cleaner, faster, and more efficient than putting water or fuel in the boat. It was so absurd that I couldn't believe it. Everybody has been trying to avoid using their holding tanks for years, and now, given an opportunity to easily empty that holding tank in Block Island, they have seen some rather profound results.

Last year they pumped 19,000 gallons worth of waste out of recreational boats in Great Salt Pond. They opened the shellfishing season two weeks earlier than they had been able to in the past seven years. They increased the use of the pumpout boat by two-fold over the previous year. It made a very large difference in people were willing to use it when it was available. When your holding tank was full, you called up on VHF Channel 12 and you requested the holding tank pumpout boat to pull alongside. They were literally finished with their job within two minutes, and there was absolutely no stink, no smell, no mess, and it was, again, ridiculously easy.

The Coalition for Buzzards Bay published a report in 1990 entitled "An Assessment of Marine Pumpout Facilities in Buzzards Bay." In that report, they identified over 11,000 moorings and slips in Buzzards Bay and a total of 11 pumpout facilities, one pumpout facility for every 909 boats, and 7 of the 11 pumpout facilities are all located in the town of Wareham, which does not have the highest concentration of boats.

Right now we are not giving the recreational boater an opportunity to empty his holding tank properly. It simply does not exist. And I believe that if you read the assessment of the marina pumpout facilities on Buzzards Bay you will find that there is constant reference to the model town of Edgartown in Martha's Vineyard, which has another mobile pumpout boat. And their boat has been even more successful than the boat on Block Island. In fact, they now have two boats in Edgartown.

In the past 12 months, the Edson Corporation has worked with 25 towns and marinas, yacht clubs, and private parties around the U.S. that are currently using pumps manufactured by Edson for the purpose of pumping out holding tanks. If we want people to use pumpout facilities, we have to make them efficient, reasonable, and convenient. We strongly urge that funds are made available for this purpose. We feel it will have a very positive impact on our environment, on the shellfishing, on swimming areas, etc. Thank you very much.

Mr. STUDDS. Thank you.

[The prepared statement of Mr. Keene can be found at the end of the hearing.]

Mr. STUDDS. Ms. Veronica Floyd of the American League of Anglers and Boaters. Ms. Floyd.

**STATEMENT OF VERONICA FLOYD, FIRST VICE CHAIRMAN,
AMERICAN LEAGUE OF ANGLERS AND BOATERS**

Ms. FLOYD. Mr. Chairman, I am pleased to be here today to discuss the important work of the Aquatic Resources Trust Fund. I serve as First Vice President of the American League of Anglers and Boaters, a national organization comprised of more than 30 national entities representing the fishing, boating, and conservation communities. I am accompanied today by Derrick Crandall, ALAB Chairman Emeritus. We deeply appreciate the energetic and constructive efforts of the Chairman and other Members of the subcommittee on this program over the past decade.

We share the goal of Chairman Jones as expressed in H.R. 1297 in assuring the quality of the Nation's surface waters. We also believe that further progress must be made in making recreational boating safer and the waters of our Nation more accessible for the Nation's tens of millions of anglers and boaters. In too many cases, permitting complications have made planned boating access projects impossible within the Act's current time limits. These and other challenges have prompted ALAB to search for modifications to the existing program which would maintain an equitable balance of benefits to all contributors to the fund and help achieve outstanding and cost-effective boating and fishing projects with the available funding.

Thanks to the increased rate of Federal taxation of motor fuels, inflation, and other considerations, the Wallop-Breaux Fund is likely to grow substantially over the next five years. ALAB strongly believes that this increase in available funding should be carefully used to strengthen specific elements of the Aquatic Resources Trust Fund. We are pleased to offer the following objectives as tentative consensus of the ALAB membership which we would hope to finalize in discussions with you and your staff.

The current cap on the Boating Safety account should be increased from the present level of \$70 million to \$80 million in fiscal year 1993, to \$85 million in fiscal year 1994 and fiscal year 1995, and to \$90 million for subsequent years. Of the increase, 100 percent should go to boating safety assistance grants to the States. The set-aside for grants to national non-profit organizations should be increased from the present limit of five percent to a minimum of five percent and a maximum of seven percent of the total available for grants to the States.

The maximum allocation to any State from the Boating Safety account would be capped at eight percent of the available funding. The Commandant would be allowed to waive the State matching fund requirements for amounts up to \$100,000 per State on a hardship basis. ALAB further supports making the Boating Safety account, like the Sport Fish Restoration account, subject to permanent appropriations.

The present minimum spending requirement of 10 percent of each State's Sport Fish Restoration account allocation for boating access should be changed. First, the scope of projects should be re-defined as "boating access and facilities," including marine sanitation device pumpout facilities, transient slips, and other facilities servicing larger boats in addition to launching ramps and parking lots. Second, the minimum spending requirement should be boosted to 12.5 percent of the apportioned funds for each State. Third, States need new flexibility to pool boating access and facility funding on a regional basis, somewhat like authority under the Clean Air Act.

Specifically, States should be permitted to spend less than 12.5 percent in any single year on boating access and facilities if either (1) it documents plans to average at least that amount during a three-year period or, (2) the State enters into an agreement with an adjacent or approximate State or States, the result being that the States will collectively invest at least 12.5 percent of their total apportioned share on boating access and facilities.

Fourth, States should be allowed to retain boating access and facility moneys until expended at the discretion of the Secretary, if permitting delays make prompt expenditures impossible. Fifth, any reverted boating project funds should be placed in a new sub-account controlled by the Secretary. This new account would be used to fund boating projects on a nationwide competitive, merit-driven basis.

ALAB will take an active role in efforts to review recreational boating-related water quality programs, especially in coastal areas and to assess strategies for mitigating such problems. ALAB will actively encourage improved intrastate agreements among State agencies servicing fisheries and boating programs to overcome coordination problems involving boating access and facilities and a balanced fisheries effort addressing both marine and saltwater programs.

Mr. Chairman, we have discussed the questions raised in your letter of April 17 and believe our testimony responds fully to question four, partially to others. We would like to add the following initial responses. To question one, we believe that the installation of pumpout stations at private marinas is a necessary and appropriate expenditure of funds from the Aquatic Resources Trust Fund, providing public access to the facility is guaranteed at a reasonable fee.

Question two, we are uncertain about the sufficiency of the waiver provisions of H.R. 1297. As discussed with your staff, we are assisting in an expedited survey of water quality problems associated with recreational boating, now scheduled to be completed within 60 days. Question three, we have no awareness of any States which are failing to abide by the provisions of the law regarding benefits to freshwater and marine fisheries projects.

And question five, ALAB is not prepared to take a formal position on the appropriateness of funding data collection required for administration of marine fisheries through the Aquatic Resources Trust Fund. While ALAB members believe that data collection is necessary, a majority of our organizations presently oppose funding of ongoing Federal activities through the Fund and support ade-

quate annual appropriations through the Department of Commerce for data collection by NOAA and NMFS.

This concludes my remarks. I thank you, Mr. Chairman, for your consideration and continuing support. And I would just like to add I would also like to submit to you the Chartmaker 2000 video from our program which was held last June, and also NASBLA has come out with a new book which discusses some of its funds and where they are going.

Mr. STUDDS. Thank you very much. We appreciate that.

[The prepared statement of Ms. Floyd can be found at the end of the hearing.]

Mr. STUDDS. Finally, Mr. Russell Scott of the Chesapeake Bay Commission. Mr. Scott.

STATEMENT OF RUSSELL SCOTT, MEMBER, RECREATIONAL BOAT POLLUTION WORK GROUP, CHESAPEAKE BAY PROGRAM

Mr. SCOTT. Mr. Chairman, I am not with the Chesapeake Bay Commission. I am Russell Scott from Richmond, Virginia. I am a member of the boating community and have served as a member of the Recreational Boat Pollution Work Group of the Chesapeake Bay Program.

As a member of the boating community and a former member of the Boat Pollution Work Group, I support H.R. 1297. I would urge, however, that the bill be amended to expand the funding provisions to include operation of pumpout stations, in addition to installation and maintenance, and the funding of the installation of portable toilet dump stations. It has been suggested that anywhere between 25 percent to 50 percent of the boats that are over 24 feet in length but less than 30 feet in length are equipped with portable toilets, but few marinas provide dump stations and wash racks. The lack of such facilities leads the boater to flush his portable toilet waste down a shoreside toilet with the danger of poisoning the septic system or package treatment plant, or equally bad, dumping his accumulated waste overboard.

In addition, I would urge that the notification section of the bill be amended to add a paragraph to give guidance on supplying pumpout stations with fittings and adapters that will mate with the various sizes and types of discharge fittings on boats. I have been told of the frustration of a boater who has tied up for a pumpout only to discover that the pumpout hose is too large for the fitting on his boat.

Switching from the bill to the questions posed to me in a letter from the Chairman, I believe that the lack of pumpout facilities for boat holding tanks has degraded water quality in areas where boats tend to congregate on weekends and during the vacation months. If pumpout facilities are not conveniently located, adequate and available for use, and inexpensive to use, then boaters will simply switch their Y-valves from their holding tanks and discharge overboard in violation of Federal regulations.

The words adequate and available are important. I have seen State-approved pumpout systems that were of inadequate capacity. I have seen systems that were located so as to be inaccessible to the boats that needed them. I have seen systems that were inoperable

for as long as an entire boating season, and I have heard of pump-out operators charging from \$25 to \$50 for a pumpout.

Yes, the enactment of H.R. 1297 would improve the quality of the waters where boats congregate, but it would do a better job if there were safeguards that would set standards or guidelines for capacities, location, number of units per marina, and maximum pumpout fees.

With respect to the advantages and disadvantages of funding pumpout facilities at private marinas, I can only say I believe it is in the public interest to fund such facilities at private marinas. In Virginia, there are no State-owned marinas that I know of. There are a few municipal marinas and a number of unattended State-owned piers and launching ramps. If a boater wishes a pumpout, he or she, in almost all cases, will have to rely on a private marina. The only problem I can see with the funding facilities at a private marina is that of the competitive advantage given to one private operator who receives a government grant over another operator who has already invested his private funds into installing and operating his facility.

The waiver provision of H.R. 1297 appears adequate to ensure that no State will be required to build pumpout facilities that are not needed. As I see it, there is more of a problem that a State will underestimate the number of pumpout facilities needed. Boaters tend to use their boats at the same time: on weekends and, in particular, on three-day weekends. Unless there are sufficient pumpout facilities available for boats returning to their marinas on the last day of the weekend without undue delay, the boats will not use the facilities, and the local water quality will be degraded again. This concludes my remarks.

Mr. STUDDS. Thank you very much, sir.

[The prepared statement of Mr. Scott can be found at the end of the hearing.]

Mr. STUDDS. Mr. Vogt, since you passed, let me ask you a few questions, if I may, from the EPA's perspective. We know you don't have a formal statement, but I wonder if you would summarize your understanding of the extent to which sewage from recreational and other small boats may be degrading coastal water quality. Is it fair, for example, to suggest that discharges from recreational vessels may be a significant contributing factor to the increased closure of shellfish beds in recent years?

Mr. VOGT. Thank you, Mr. Chairman. Yes, I will——

Mr. STUDDS. Can you bring that mike a little closer, please?

Mr. VOGT. I certainly will.

Mr. STUDDS. Thank you, sir.

Mr. VOGT. We perceive that the problem you are tackling here, discharges from recreational vessels, does contribute to significant problems in various areas. Is it a national problem? Yes, it is a national problem in terms of degraded water quality. Discharges from vessels is a minor source compared to all the other sources: industrial, wastewater sewage treatment plants, and runoff; but vessel discharges in certain locations, storm and agriculture certainly is a very major source of certain coves, harbors, and areas where boats congregate, including marinas. Factors that influence the severity

of water quality degradation include such things as circulation of the water, flushing and numbers of boats that accumulate there.

Hazards that are posed by vessel discharges, have already been mentioned by others in their testimony today. I think the hazards to human health are very apparent in terms of swimming and shellfish fishing in closed shellfish beds. Another hazard that has been mentioned is toxic substances that do come from vessel discharges, from the marine sanitation devices themselves; EPA requires chlorination; also oil and grease and the gray water discharges from cooking and cleaning can result in toxin being discharged, and one of my favorites is marine debris: plastic debris that is associated with sewage discharges can also result in vessel discharges.

It is a problem. We don't have a comprehensive assessment of the extent of the problem, but from our National Estuary Program, we have seen numbers of areas such as Buzzards Bay, Tampa Bay, the Delaware inland bays; that have difficulties with water quality due to vessel discharges.

Pumpout stations, I think certainly there is a need for more pumpout stations, but I think, if you don't mind I can continue my short statement here on your question, but the perspective is pumpout stations will help, but we need to understand the EPA regulations also, and Coast Guard regulations; that there are regulations on the books for various types of marine sanitation devices. There are types I, II, and III. Types I and II are, essentially, treatment devices, a blender with chlorination or some other kind of disinfection. Type III is for no discharge, and that would include a holding tank which would be brought to a pumpout station. In essence, types I and II result in treated discharges and a type III is a no-discharge situation.

Most areas of the country have discharge situations. It is allowed to discharge from your marine sanitation device. The Coast Guard reports that about 75 to 80 percent of boats that should have marine sanitation devices do not have them. I don't have an exact number at my fingertips, but that is a significant number of boats in non-compliance with our regulations.

In terms of no discharges, that is the key, I think, to the pumpout facilities that this bill is addressing. The areas that have no discharge zones are addressed by EPA regulations; they provide that States must petition EPA asking for no-discharge zones. EPA approves or disapproves that petition based upon an assessment if there are adequate and reasonably available pumpout facilities. We have a little bit of a catch-22 in terms of that you must have enough pumpout facilities before you get a no-discharge zone, but how do you get the pumpout facilities built? Marine operators don't have the economic incentive to build those facilities, so which comes first? I think your bill does address part of that question.

The other piece of it, I just want to mention briefly, is, I think, a real key. It is State involvement. When there is a no-discharge zone put forth, the State has enforcement responsibilities. However, the Clean Water Act does not provide for any of the fines or enforcement penalties that are collected by the State to be retained by the State. They continue to revert to the U.S. Treasury, not collecting

those fees and penalties is a disincentive for States to take an active role in these programs.

Mr. STUDDS. It sounds like compliance hasn't improved a lot since we last heard from EPA on the subject about eight years ago. Aside from the incentives for building pumpout facilities that are contained in the bill, do you have any other suggestions how we might improve enforcement and compliance with these MSD regulations?

Mr. VOGT. I think the key is the one I just mentioned, the State involvement. We need an enforcement program. The Coast Guard is enforcing now only to the point of when they board a boat for another violation, they will check to see if the boat has a marine sanitation device. State involvement is key here in terms of being able to collect the fines and put them into their own State coffers. That would provide enforcement incentive. Plus, the other aspect of this approach, I think, that needs to be recognized is public education. Many boaters don't feel that their discharge causes a problem, I think the key to success is an enforcement incentive and some public education that one discharge plus another can lead to serious problems.

Mr. STUDDS. One quick follow-up and then my time is expired. Mr. Moffett, you said that your office already encourages States to use Wallop-Breaux money for pumpout facilities. To your knowledge, how many such facilities have actually been built using these funds, and where?

Mr. MOFFETT. No, sir, I can't give you an exact number. It is not nearly what we would like, obviously.

Mr. STUDDS. Give me an order of magnitude.

Mr. MOFFETT. Since Wallop-Breaux has been passed, probably less than half-a-dozen States or six, eight States have been active participants but there are other States, for example Michigan, not using these types of funds that have more than an adequate number of pumpout stations. So we are talking about a combination of what is here plus what is funded with State funds, or local funds, or whatever. And I would be the first to admit that we probably need to do a better job in encouraging the States to pay more attention to those zones where there are hot spots of contamination, just to make sure that the needs are met.

Mr. STUDDS. The gentleman from Maryland, Mr. Gilchrest.

Mr. GILCHREST. Thank you, Mr. Chairman. The question of a private marina that has already installed a pumpout system and will charge the boaters to reimburse that investment, how is that affected when another private marina might get a grant for a pumpout station, as far as the competitiveness as charging boaters to use that particular facility? Mr. Moffett, maybe I should target this question to Mr. Keene, but maybe both of you could answer it. If I am a boater and I move into a facility where I am going to be charged \$25 to have my boat pumped out, and then 10 miles down the bay or the river someone else has received a grant and put a pumpout facility there and they can charge \$10, how do we balance that?

Mr. MOFFETT. This was one of the concerns I raised in my testimony. How do you determine a schedule of reasonable fees that are totally competitive, depending on the particular set of circum-

stances? For example, one pumpout station that might be directly tied into a municipal sewage system may be able to charge a lesser fee than one who has to pump it out and haul it away by some other means, so there are any number of variables that will do that. So, I think the basic question is commercial competition and supply-and-demand. I don't know how else to answer your question, but there are any number of variables that could determine what the price in the marketplace would be.

Mr. GILCHREST. Is that a minor or major problem, Mr. Keene?

Mr. KEENE. I think it may be relatively minor because I don't believe that there are an awful lot of pumpout facilities that exist right now, and I think you are going to find that it is going to be a market-driven situation. In other words, the town of Edgartown, I believe, charges now as much as \$50 a night for the use of one of their moorings. Block Island is \$25 a night for one of their moorings. In these mooring charges, they include free pumpouts, but I think more to the point that it is going to boil down to convenience. If your holding tank is full and it is against the law to discharge in that particular harbor, you are going to pay the price to have it emptied if the fine is substantially greater than the cost of having it emptied.

Mr. PETERSON. Might I add to that? I think a real problem we see is that many States have laws now that state if you build a marina you must build a facility to dispose of sewage, and many have already done that. They have made the investment. And maybe they did it with some State assistance and maybe not. In most cases probably not.

Now the question is, are you going to have a marina right next door in which you are going to actually help fund that from public funds, and if you are, how do you require that marina to allow the public access to what was built with public funds? In other words, one of the primary criteria of Wallop-Breaux was the funds are not spent in areas unless there is public access. So, will the marina operator be willing to accept public access, and would he be willing to charge a reasonable rate for that public access? Those are some of the questions that have not been addressed at this point.

Mr. GILCHREST. I see. Thank you. Mr. Peterson, you suggested that the problem of sewage degradation to our Nation's waterways be studied a little bit further.

Mr. PETERSON. No, no, not studied. What I am suggesting is that in looking at what the 50 States have done, many States have approached it in several different ways. For example, I mentioned the barge system that is in use in several States. This bill as written does not appear to recognize that a barge might be a way of handling this, rather than a shoreside pumpout station.

We also recognize that apparently in several States unless there is a State law banning discharge, you don't get use of the stations. We simply said we would like to have about 60 days to find out what all the States are doing in order to help find a better solution to the problem. We are not saying there is not a problem. In some places we recognize there is a problem. Several States are already building facilities using Wallop-Breaux funds or some other funds.

Mr. GILCHREST. So I guess you are saying and I think all of you are saying that whatever law comes about, it has to be flexible enough to meet the peculiar needs of each particular region.

Mr. PETERSON. That is correct.

Mr. KEENE. Absolutely.

Mr. PETERSON. And the Wallop-Breaux appropriation is now available for that purpose. It is not a question of making it available, it is whether you mandate a specific amount, a percentage for each State. That is the question.

Mr. GILCHREST. I see. Thank you. Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from Texas.

Mr. LAUGHLIN. Thank you, Mr. Chairman. Mr. Moffett and Mr. Vogt, I did not hear all your testimony, but in reviewing your statements and looking over the list of witnesses and their testimony, I did not see any indication that this sport boat dumping problem was a problem in the Gulf of Mexico area, and I take it that the reason for that oversight is just because you come from other boating areas. Is that correct?

Mr. MOFFETT. No, sir. We have surveyed the State of Texas and several of those coastal States. There is no indication that there is a massive problem in getting feedback from those States.

Mr. LAUGHLIN. Well, what I am really trying to find out, is if we have the problem in the Gulf State areas just as much as the Chesapeake Bay and, I believe it was Buzzards Bay. I am not familiar with that place in Massachusetts, but the same problem exists in the Gulf of Mexico boating areas, doesn't it?

Mr. MOFFETT. Well, I would imagine that it does, particularly in some of the areas described by the gentleman from EPA that talked about where there are coves and marina sites that don't get adequately flushed that may very well be troublesome, so I would agree, yes, that there are going to be spots that are going to be troublesome.

Mr. LAUGHLIN. But you don't bring information here today that would help us in making an evaluation whether the Texas waters—

Mr. MOFFETT. Not site-specific.

Mr. LAUGHLIN [continuing]. Have as much trouble as the Chesapeake Bay? The reason I have that concern, Chesapeake Bay gets tremendous Federal funds, and perhaps they need them, but the Gulf of Mexico produces tremendous resources for our Nation. And we get about a thimble-full of Federal funds for cleaning up our waters and tending to the other desirable things that need to be done, and I just wanted to be sure I didn't leave here with the impression that there are no sport boat problems in the Gulf of Mexico that do not need to be addressed. Yes, sir?

Mr. VOGT. Well, I don't have specific information, but I do agree with Mr. Moffett that the problems are similar. The information that we have is anecdotal in terms of problems of the marinas. Texas does have an active program within some freshwater lakes. There are 24 freshwater lakes in Texas that have no discharge zones. Now, I don't have information on pumpout stations in those freshwater lakes, but we all need to recognize that this is not just a problem in coastal waters, but it is a problem that goes inland. I

would agree that your great State of Texas probably does have some vessel pollution problems.

Mr. LAUGHLIN. Well, the next area, and I don't know whether it ought to be Mr. Vogt or Mr. Moffett, but I represent a district that has three wildlife refuges in it, two of them on the Gulf of Mexico. In my home county, the part I do not represent, there are two more, and I just wonder if the EPA has any enforcement of the dumping of sewage by the sporting boats in these areas, or do you recommend that we do or do not have any enforcement provisions for dumping in these sensitive areas?

Mr. VOGT. EPA does not have enforcement responsibility under the Clean Water Act. That is a U.S. Coast Guard responsibility for vessel pollution, but States can adopt that responsibility by a simple letter to the Coast Guard. The difficulty I was pointing to earlier was when States do enforce the regulations and penalties are up to \$2,000 per violation, that money reverts to the Federal Government. This is not an incentive that is helpful to a State for taking over a program of enforcing the vessel discharges.

Mr. LAUGHLIN. Mr. Moffett, do you have any observations on that point as far as the wildlife refuges within your system; whether we need enforcement provisions as far as the pumpout facilities or the waste discharges from the sporting boats in the area where we have wildlife refuges?

Mr. MOFFETT. OK.

Mr. LAUGHLIN. I understood one of you gentlemen to respond to the Chairman that there was wildlife degradation as a result of this problem, and it seems to me if it is in some areas that perhaps we ought to consider some enforcement requirements, particularly in the wildlife refuge areas.

Mr. MOFFETT. One of our major threats right now in the U.S. Fish and Wildlife Service is contaminant cleanup on National Wildlife Refuges regardless of the source of those contaminants. Sewage would be, obviously, one of the things that we would be concerned about, particularly in the tidal zones and inter-tidal zones where we have such rich shellfish and finfish nurseries, that sort of thing. So, I would agree that enforcement is a big problem we need to address.

The problem that we have within the National Wildlife Refuge System and the laws that govern them is that we have limited law enforcement beyond those things that deal directly with fish and wildlife activities, so the enforcement of discharges of boats would more appropriately fall within the State and the Coast Guard jurisdiction. So, I would agree that we do need to tighten up the enforcement aspects of this.

Mr. LAUGHLIN. Thank you. Thank you, Mr. Chairman.

Mr. STUDDS. Thank you, sir. The gentleman from California, Mr. Doolittle.

Mr. DOOLITTLE. I have no questions, Mr. Chairman.

Mr. STUDDS. The gentleman from California, Mr. Anderson.

Mr. ANDERSON. No.

Mr. STUDDS. Let me ask a couple of very quick ones. We can sneak them in here, if I may. Mr. Keene, I can't resist this. You said that your pumps saw active duty during Operation DESERT STORM, and that, of course, raises a number of questions about

precisely what kind of duty the pumps performed, about whether, for example, any were wounded, whether their use was restricted to vessels, or whether they were used on tanks as well, and whether the success of your technology will now be used to justify continued expenditures for Star Wars. Can you tell us a little bit more about exactly what your pumps did during the war?

Mr. KEENE. Yes, sir. If you would like to send our pumps to the Moon, we would be more than happy to let you do that so long as they are bought and paid for prior to being shot off into space. They were used in portable shower-and-shave units that were developed by a company for the U.S. military down in Virginia, and they were also used in field hospitals for the transportation of waste water, basically.

What our pumps are able to do is to handle a mixture of material through them very, very effectively without any problems, no clogging, no hiccups, no burps, no muss, no fuss, and that is why they have been chosen, and I believe that you may see them used more extensively in military operations as the result of people seeing them.

I know that the people doing the dishwashing and the laundry in DESERT STORM looked at our pumps in the field hospital units and said, "Hey, we could use something like this."

Mr. STUDDS. None were wounded?

Mr. KEENE. None were wounded that we are aware of.

Mr. STUDDS. Good. I am very glad. Mr. Vogt, I wonder if there are obstacles aside from funding that we need to overcome when we are talking about this situation. I know there are towns, for example, on Cape Cod that are hesitant to build pumpout facilities. They don't know what to do with the it that is pumped out. Apparently, there is concern that chemicals used in the MSD might harm local sewage treatment systems. Is this a widespread problem, and would EPA be in a position to provide guidance to States and municipalities on this point?

Mr. VOGT. I think that it is one of lack of knowledge, and it probably could be a problem in certain areas, and the problem we are referring to is one that the chemicals that are currently used for the holding tanks which is for, essentially, odor suppressant, so you don't wind up with a stinky boat. They are not very kind chemicals to the microbiology or mechanisms in sewage treatment plants in municipalities, so there is a lot of concern that discharging a batch or a little bit at a time into the sewer lines hooked up to the municipality could damage or interfere with the treatment plant.

Two things. One is, I think we can use a lesser, I guess toxic would be the word, batch of chemicals for the odor suppressant, and, two, I think we could do a little bit better in terms of understanding the problem. I don't think we have really addressed it in terms of is it a problem, and the education of the marina operators with pumpout facilities.

Mr. STUDDS. Mr. Scott, you talk about operational costs as well as construction costs.

Mr. SCOTT. Yes, sir.

Mr. STUDDS. How extensive are they likely to be?

Mr. SCOTT. I really can't give you an idea of that. It seems to vary with the type of pumpout facility. There are some that have

to be operated by marina personnel, and if the marina operator dispatches a machinist who is making \$30 to \$35 an hour, then those costs would have to be covered.

On the other hand, some of the pumpout facilities I have seen are coin-operated and do not require any marina personnel present at all, so in that case there would be no operational costs but only maintenance.

Mr. STUDDS. I want to thank you all. It has been an edifying way to spend a dreary morning. I guess the basic question is do we have a problem here that is sufficiently serious to need solving at the level of Federal legislation? Just do a quick rundown from left to right.

Mr. MOFFETT. Mr. Chairman, I personally do not believe we need resolution at the Federal level.

Mr. STUDDS. OK.

Mr. MOFFETT. I think that we have ample latitude within existing authorities to accomplish the objective.

Mr. STUDDS. Well, we sure haven't accomplished anything.

Mr. MOFFETT. Well, we—

Mr. STUDDS. OK. That is fair enough. I want to hear the views going right down. Mr. Vogt.

Mr. VOGT. I do believe we need attention at the Federal level from a standpoint of pumpout facilities, but it is not the complete answer. If we just go out and build pumpout facilities, I think we will wind up with little-used pumpout facilities. There needs to be a multi-problem approach and I think with public education; State enforcement as opposed to Federal enforcement because I don't think the Coast Guard will be able to up their resource levels and up it in priority to do what is needed to be done in terms of an incentive. The incentive that I am talking about is two things. It is enforcement by States and public education that says, "When you flush that into the bay, harbor, or wherever, that creates a problem."

Mr. STUDDS. When you say it is not the answer, is it part of the answer?

Mr. VOGT. The pumpout facilities? Yes. I think it is part of a three-pronged approach.

Mr. STUDDS. OK. Real quick. Mr. Peterson.

Mr. PETERSON. Mr. Chairman, I think from what we know now there are problems particularly in certain areas where you have a congregation of boats in eddies, and estuaries, and so on. I am not sure it is a general problem. For example, take a State like Alaska where you have got—

Mr. STUDDS. We have already decided not to take a State like Alaska.

Mr. PETERSON. Anyway, I think it is a problem in some locations. I am not at all sure that building shoreside pumpout stations would make a significant contribution to the solution, because it seems to me that you have got to get the sewage from a boat to a final treatment plant to be successful, and how you do that, there is a lot of solutions to that. And I don't think we should specify a solution, nor should we specify a fixed percentage of funds by each State. I think that would be counterproductive.

Mr. STUDDS. Mr. Keene. I thought this was a yes or no question, but go ahead.

Mr. KEENE. I believe you guys could make a difference by making some funds available. I think you ought to give a little bit more latitude towards the type of pumpout facility that is included, and I think you are going to find that through the education and enforcement of treating human waste in a responsible manner you are going to find that people are going to certainly treat other waste, whether it is plastics, trash of all types in a more responsible manner. And I think you are going to find that a trickle-down effect is going to be beneficial to all of us in all of our waterways.

Mr. STUDDS. That is a catchy concept on this subject. Ms. Floyd.

Ms. FLOYD. I would say that ALAB believes that the Wallop-Breaux Trust Fund is addressing this issue in a variety of ways, and specifically we as a group have not reached a consensus, yes or no. How is that for an answer?

Mr. STUDDS. You are eligible for employment in this Administration. Mr. Scott. Sir?

Mr. SCOTT. Mr. Chairman, I think it is sort of a chicken-and-egg situation, and you certainly have to start somewhere. And I believe that if we add pumpout stations that are available and operational, that people would use them.

Mr. STUDDS. Very well. We thank you all. Are there additional questions from the Members who are here? The gentleman from Maryland.

Mr. GILCHREST. Thank you, Mr. Chairman. I would just like to say that when we do get involved in something like this, you probably will want to have the mindset of at least a three-pronged approach, to approach all the various things that need to be taken care of from the toxic chemicals used to deodorize these holding tanks to whatever the possibility is for barges; just look at the full range of possibilities and be as flexible as possible to meet the unique needs of each particular region. Thank you.

Mr. STUDDS. I assure the subcommittee will not move until we have attained a three-pronged mindset. Under no circumstances. Are there any other questions? Oh, I am sorry.

Mr. KEENE. I have got one quick comment on the subject of the chemicals used to deodorize the waste onboard the boat. I think you would find with some research that our company has done that, that deodorizing is only required because of the poor quality of plumbing used inside that boat, and that there are hoses available that will not be permeated by the gases from the waste.

Mr. STUDDS. Very good.

Mr. KEENE. And we also can address Mr. Scott's problem on hooking into any and all pumpouts on boats regardless of the size and type of pumpout onboard the boat itself.

Mr. STUDDS. And the record will be kept open for any further advertising from any other New Bedford company, and on that note the subcommittee stands adjourned.

[Whereupon, at 11:15 a.m., the subcommittee was adjourned, and the following was submitted for the record:]

102D CONGRESS
1ST SESSION

H. R. 1297

To amend the Dingell-Johnson Sport Fish Restoration Act to authorize the use by coastal States of apportionments under that Act for construction, renovation, and maintenance of shoreside pumpout stations for marine sanitation devices.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 1991

Mr. JONES of North Carolina (for himself, Mr. DAVIS, Mr. STUDDS, Mr. ABERCROMBIE, Mr. FOGLIETTA, Mr. GOSS, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. JEFFERSON, Mr. LIPINSKI, Mr. MANTON, Mr. PICKETT, Mr. RAVENEL, Mr. SAXTON, and Mr. TALLON) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend the Dingell-Johnson Sport Fish Restoration Act to authorize the use by coastal States of apportionments under that Act for construction, renovation, and maintenance of shoreside pumpout stations for marine sanitation devices.

1 *Be it enacted by the Senate and House of Rep.esenta-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Clean Vessel Act of
5 1991".

1 **SEC. 2. FINDINGS; PURPOSE.**

2 (a) **FINDINGS.**—The Congress finds the following:

3 (1) Sewage discharged from vessels is a sub-
4 stantial contributor to the degradation of water
5 quality in many United States bodies of water.

6 (2) Federal law prohibits a vessel with a marine
7 sanitation device from operating on United States
8 waters unless the device has been approved by the
9 Coast Guard.

10 (3) The discharge of sewage, treated or un-
11 treated, by vessels is prohibited in many United
12 States bodies of water pursuant to Federal and
13 State law.

14 (4) Most recreational boaters operate their ves-
15 sels on waters where the discharge of sewage, treat-
16 ed or untreated, is prohibited.

17 (5) Over two-thirds of recreational boaters sur-
18 veyed indicate that adequate shoreside pumpout sta-
19 tions for marine sanitation devices do not exist
20 where they normally operate.

21 (b) **PURPOSE.**—The purpose of this Act is to provide
22 funds to coastal States for the construction, renovation,
23 or maintenance of shoreside pumpout stations for marine
24 sanitation devices.

1 **SEC. 3. MARINE SANITATION DEVICE PUMPOUT STATION**
2 **FUNDING.**

3 (a) **FUNDING.**—Section 8 of the Act of August 9,
4 1950 (16 U.S.C. 777g), popularly known as the “Dingell-
5 Johnson Sport Fish Restoration Act”, is amended by add-
6 ing at the end the following:

7 “(d) **PUMPOUT STATIONS.**—

8 “(1) **USE OF FUNDS REQUIRED.**—For each of
9 the fiscal years 1992 through 1996, each coastal
10 State shall use 5 per centum of the funds appor-
11 tioned to it for that fiscal year under section 4 to
12 pay not more than 75 per centum of the costs of
13 construction, renovation, or maintenance of shore-
14 side pumpout stations for marine sanitation devices.

15 “(2) **WAIVER.**—The Secretary of the Interior
16 may, if requested by the Governor of a coastal State,
17 waive or reduce the percentage of the coastal State’s
18 apportionment under section 4 that is required to be
19 used in accordance with paragraph (1) if the Sec-
20 retary finds, and the Administrator of the Environ-
21 mental Protection Agency concurs, that—

22 “(A) the discharge of sewage from vessels
23 is not a significant contributor to the deg-
24 radation of water quality within the State;

1 “(B) adequate shoreside pumpout stations
2 for marine sanitation devices are available to
3 meet vessel requirements within the State; or

4 “(C) the anticipated construction, ren-
5 ovation, and maintenance requirements for
6 shoreside pumpout stations for marine sanita-
7 tion devices within the State will be adequately
8 and expeditiously met with a reduced percent-
9 age requirement under paragraph (1).

10 “(3) DEFINITIONS.—For the purposes of this
11 subsection—

12 “(A) the term ‘marine sanitation device’
13 has the meaning that term has in section
14 312(a)(5) of the Federal Water Pollution Con-
15 trol Act (33 U.S.C. 1322(a)(5)); and

16 “(B) the term ‘coastal State’—

17 “(i) means a State of the United
18 States in, or bordering on, the Atlantic
19 Ocean, the Pacific Ocean, the Arctic
20 Ocean, the Gulf of Mexico, Long Island
21 Sound, or any of the Great Lakes; and

22 “(ii) includes Puerto Rico, the Virgin
23 Islands, Guam, the Commonwealth of the
24 Northern Marianas, and American
25 Samoa.”.

1 (b) NOTIFICATION.—Not later than 6 months after
2 the date of the enactment of this Act, the Director of the
3 United States Fish and Wildlife Service, in consultation
4 with the Administrator of the Environmental Protection
5 Agency, shall notify in writing the fish and game and
6 water pollution control authorities of each coastal State
7 of the availability of funds under section 8(d) of the Act
8 of August 9, 1950, as amended by this Act, to finance
9 the construction, renovation, or maintenance of shoreside
10 pumpout stations for marine sanitation devices. The noti-
11 fication shall include—

12 (1) a description of the availability of funds in
13 the Sport Fish Restoration Account for those pur-
14 poses;

15 (2) a projection of the apportionments to the
16 State under that program for the succeeding 5
17 years;

18 (3) guidance regarding the types of pumpout
19 facilities that may be appropriate for construction,
20 renovation, or maintenance with those funds;

21 (4) guidance on the coastal waters most likely
22 to be affected by the discharge of sewage from ves-
23 sels; and

24 (5) other information that the Administrator
25 considers suitable to promote the establishment of

- 1 shoreside pumpout stations to reduce sewage dis-
- 2 charges from vessels and to protect coastal waters.

STATEMENT OF CONLEY L. MOFFETT, DEPUTY ASSISTANT DIRECTOR FOR FISH AND WILDLIFE ENHANCEMENT, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, CONCERNING H.R. 1297, THE CLEAN VESSEL ACT OF 1991

May 9, 1991

Good morning, Mr. Chairman. I am Conley L. Moffett, Deputy Assistant Director for the U.S. Fish and Wildlife Service, with responsibility for administration of the Sport Fish Restoration Program. I am pleased to be here today to testify on H.R. 1297. The bill would require coastal States to use five percent of their Sport Fish Restoration Program apportionment for construction, renovation, and maintenance of marine sanitation device pumpout stations for the fiscal years 1992 through 1996.

Although we support efforts to improve and maintain water quality, we do not support passage of this bill. The construction and operation of pumpout facilities are proper activities under existing Sport Fish Restoration Program authorities, and we encourage the States to include them in boating access proposals.

The Service is committed to improving the Nation's water quality. One of our major thrusts is the cleanup of contaminants on our National Wildlife Refuges, and the protection of coastal wetlands through acquisition and restoration will be the cornerstone of our Bay-Estuary Program. By far the most significant and consistent demonstration of the protection of coastal habitats and resources has come from the States, however, through the Sport Fish Restoration Program. Coastal States have acquired over 100,000 acres of land for the protection of fishery resources since the

inception of the program in 1952. Nearly a quarter of this has occurred since the passage of the Wallop-Breaux Amendment in 1984.

With respect to the questions raised in your letter of invitation, Mr. Chairman, we are unable to provide a judgement as to whether the lack of pumpout facilities has degraded coastal waters or whether enactment of H.R. 1297 would improve the quality of those waters. Perhaps EPA or the States can comment on those issues, but we are pleased to address the other questions you have raised.

With respect to the advantages and disadvantages of funding pumpout facilities at private marinas, the advantage is that the facilities would be available to a larger group of boaters. The disadvantages would be logistical and administrative, including problems related to: 1) establishing compliance procedures for Federal grant-in-aid requirements, such as handicap access; 2), ensuring that marina owners provide public access to these facilities; 3) establishing State administrative and fiscal procedures to account for the expenditures of funds and receipts that may be derived.

For example, who would purchase and own the equipment and to what set of standards? Who would determine what is a reasonable fee for the use of these facilities? Who would be the recipient of these fees? An overriding question relates to the fact that Sport Fish Restoration monies are made available on a matching basis. Is the intent to require the State or private marina owners to provide this match?

As for the issue of avoiding the building of unnecessary pumpout facilities, we are not sure if the waiver requirement included in H.R. 1297 would cause the States undue problems with compliance. A memorandum of agreement could be developed between the Department of the Interior and EPA to establish procedures for the granting of waivers to States that have documented that the three criteria, as specified in the bill, are being met. Requirements for a waiver may include the number of pumpout facilities per recreational vessels required to have marine sanitation devices and other criteria that meet the provisions of the Clean Water Act.

Concerning the allocation of funds, the 1988 amendment to the Sport Fish Restoration Act required each coastal State, to the extent practicable, to equitably allocate its apportionment between freshwater and marine projects. As requested by your staff, we have examined the obligation of funds by selected States on all three coasts, including: Washington, Texas, Florida, North Carolina, South Carolina, New Jersey, and Massachusetts. (See attachment.) All of these States are obligating funds between freshwater and saltwater projects in accordance with the guidance the Fish and Wildlife Service provided, based upon the 1985 National Survey of Fishing, Hunting, and Wildlife Associated Activities.

As to whether the States should be encouraged to use the increased funds in the Sport Fish Restoration Account for specific types of

projects, we remain convinced that the success of this grant-in-aid program is due to the fact that the States, within program guidelines, are free to determine their own priorities. Documentation of State expenditures, indicating the needs of the Nation's recreational anglers and boaters are being met, is available for the Committee's use. We believe that creating mandatory expenditure categories would inhibit the States from responding to the specific needs of their constituents and aquatic resources.

One example of this is urban fishing. The Secretary of the Interior and the Director of the Service are strongly committed to enhancing urban fishing. Accordingly, we are removing restrictive regulations from the Sport Fish Restoration Program that prevented the States from stocking fish to meet these needs, and States will begin to use these funds to provide these opportunities.

Finally, although Sport Fish Restoration Account administrative funds could be used to compile harvesting data for marine recreational fisheries under the appropriate circumstances, we do not believe that providing the money to the National Marine Fisheries Service is appropriate. Under the Magnuson Fishery Conservation and Management Act, responsibility for compiling such data rests with the National Marine Fisheries Service. It has been the policy of the Service not to fund the operational activities of a Federal agency with Federal Aid administrative dollars because we believe that would be contrary to the intent of

the law and could be construed as a circumvention of the appropriations process.

Mr. Chairman, thank you for the opportunity to testify on these issues. I will be pleased to respond to questions.



International Association of Fish and Wildlife Agencies

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R. Max Peterson, Executive Vice President

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STATEMENT OF R. MAX PETERSON, EXECUTIVE VICE PRESIDENT
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE
ENVIRONMENT, CONCERNING H.R. 1297, THE CLEAN VESSEL ACT OF 1991

Good morning, Mr. Chairman. I am R. Max Peterson, Executive Vice President of the International Association of Fish and Wildlife Agencies.

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

I am pleased to be here today to testify on H.R. 1297, the Clean Vessel Act of 1991. The bill would require coastal states to use at least 5% of their Sport Fish Restoration program apportionment for construction, renovation and maintenance of marine sanitation device shoreside pumpout stations for Fiscal Years 1992 to 1996.

In inviting the Association to testify, the Committee expressed its interest in finding out the Association's views as to the extent that the lack of adequate pumpout-facilities have degraded the water quality of coastal waters and whether HR 1297 would improve the quality of those waters. It first strikes us that there simply is not the necessary information to begin to answer these questions. Basic data is lacking on the extent of the problem, the number of boats that pump sewage into the coastal waters, what boats even have pumpout capabilities, the relationship to other forms of degradation, and a host of other questions. Mr. Chairman, I regret to say that, at this point, we have been unable to secure adequate information from the states to determine (1) the number and type of shoreside pumpout stations or other facilities such as barges which are used to deal with sewage discharge from marine sanitation devices; (2) the existing state programs that are being utilized in addition to the Wallop-Breaux funds to deal with water quality degradation problems from boats; (3) the number of states which require marine sanitation device disposal facilities at marinas and the extent to which they have actually been constructed; and (4) where shoreside pumpout facilities have been provided, how effective they have been in reducing water quality degradation on a voluntary use basis or whether enforcement is necessary to assure reasonable use of pumpout facilities. -

-2-

As we have discussed with committee staff, we are sending a survey to the states requesting information which we believe will allow a more informed and more reasoned approach to reducing water quality degradation from boats. We have agreed to review the survey form, as well as the results of the survey, with your staff.

Let me point out that the states can and do use Wallop-Breaux funds to construct sewage disposal facilities, usually in connection with public access facilities. The standard information which is collected and the reporting system on Federal Aid projects is not detailed enough to determine how many of the public access facilities do in fact include marine pumpout stations. We will secure such information as a part of the survey. Without such data, we cannot state emphatically whether or not HR 1297 would adequately address these concerns.

I will, at this point, give you some preliminary answers to the specific questions you asked in your letter to me dated April 17, 1991.

You asked about the advantages and disadvantages of funding these facilities at private marinas. We have a philosophical concern as to whether funding is a public or private responsibility. Clearly, it is a public function to require such facilities. We suggest this question be discussed fully.

Before going further, please permit me to make a few observations about the Wallop-Breaux program as it now operates. The Wallop-Breaux and Pittman-Robertson programs are among the most successful of the user benefit/user pay programs in existence today. These programs truly represent a unique partnership between the paying user, the industry that collects the excise tax, and the federal, state cooperative effort which puts the program in place on the ground.

There are obviously many reasons for the success of fish and wildlife user pay/user benefit programs such as Wallop-Breaux. The focus is on the important objectives of sport fisheries management, restoration, and enhancement, aquatic education, and providing boating access for the recreational fisherman and boater. These provide opportunities for public access and enjoyment of these resources by boaters and anglers. An equally important reason for the success of the Wallop-Breaux program is the flexibility permitted each state to adapt the program over time to meet high priority needs, utilizing the creativity and the professional evaluation of high priority needs at the local level. It is important as we look at new needs that we not succumb to the temptation to adopt a formula, no matter how well intentioned, with the idea that "one size fits all".

A fine example of the flexibility and diversity of the program is expressed in the projects being carried out using Sport Fish Restoration Funds in your home state of Massachusetts. Projects ranging from anadromous fish investigations, marine fisheries investigations, management, boating access construction and enhancement, marine fisheries research and administration, even the construction of public access fishing piers are among just some of the interesting and diverse projects being accomplished in Massachusetts. These are indicative of the types

-3-

of projects being undertaken by every state in the Union benefitting anglers and boaters. Projects which have huge economic benefits for the state. In Massachusetts, the U.S. Fish and Wildlife Service has estimated that the total benefits of sport fishing to the state's economy is \$697.7 million, all enhanced by the Sport Fish Restoration Program.

The Wallop-Breaux program now gives each state the flexibility to adapt the program to meet each state's unique situation. Strict formulas take away such flexibility. No matter how well intentioned, allocation formulas in the Sport Fish Restoration Program can require the expenditure of funds that do not necessarily fit the situation.

As a member of the American League of Anglers and Boaters, the International Association is committed to ensuring that the diverse beneficiaries of the Aquatic Resources Trust Fund continue to enjoy an equitable distribution of the funds that flow from this successful partnership. We also are committed to seek improvements to the Program that keep pace with the growing demands on the Fund. In addition to the changes suggested by H.R. 1297, the International Association has been working cooperatively with the boating and fishing community to address some of the challenges which have arisen.

ALAB has suggested a number of changes to the program which appear to minimize disruptions, maintain an equitable balance of benefits to all contributors, and result in the creation of good projects. The Association supports these changes, and intends to work cooperatively with both ALAB and the Congress, to ensure that the Program continues to support the creation of boating and fishing opportunities for the Nation's anglers and boaters.

Returning specifically to H.R. 1297, there are a few general thoughts we would like to offer about the bill. First, limiting the bill to only shoreside pumpout stations may be at the expense of other appropriate, and cost effective, means of recreational boating sewage disposal. The use of pumpout barges, for example, may be a more desirable approach in some areas to this problem. The Association is also concerned about the relatively broad term of "vessels" employed by the bill. This could be construed to be more than simply recreational boats, but rather could then apply to commercial oceangoing vessels as well. We would urge the Committee to tighten up the terms used in the bill to apply to recreational boats only.

The final major concern with H.R. 1297 is with the waiver mechanism that would be established under the bill. As it is now written, we are not convinced that a state would be able to obtain a waiver if it did indeed have adequate pumpout facilities. We would be happy to work with the Committee to address this and the other concerns.

We would now like to address the specific questions raised in your letter.

Question 1. H.R. 1297 authorizes the use of Sport Fish Restoration Account funds for the construction of pumpout facilities with a waiver for states where adequate pumpout facilities exist. Is that waiver sufficient to ensure that no state will be required to build pumpout stations that are not necessary?

The Construction of adequate pumpout facilities is a desirable goal for states; however, as mentioned above, the Association has several concerns about the legislation's proposed waiver. Although construction of pumpout facilities is a worthy goal, it is difficult to determine the number of necessary facilities when so little data exists. Data the Association is currently gathering will hopefully begin to answer some of the questions on the appropriate levels of pumpout construction.

The waiver's three step approach described in H.R. 1297, a) determination that vessel sewage is not a problem; b) adequate devices are available to meet state requirements; and c) the anticipated construction of shoreside pumpout stations from the reduced percentage requirement as a result of the waiver will adequately meet the needs for pumpout. We question how many states could be able to adequately meet all three of these criteria to obtain the waiver. Further, having both the Department of Interior and the Environmental Protection Agency concurring on these three separate findings make it very unlikely that a state would be able to obtain the waiver as described in the legislation.

Question 2. H.R. 1297 requires that states use 5% of their allocation of Sport Fish Restoration Program funds for pumpout facilities, with a waiver for states where adequate pumpout facilities exist. Is that waiver sufficient to ensure that no state will be required to build pumpout facilities that are not necessary?

The Association is not aware of a method that can determine what constitutes an acceptable level of pumpout stations. This, coupled with the possible problems with the waiver mechanism, could pose significant problems to state fish and wildlife agencies and could very well lead to the development of pumpout unnecessary facilities. Further, the Association has concerns over specific earmarking of a state's sport fish restoration funds for pumpout facilities. The primary strength of the program has been the program's flexibility and the ability of states to determine their own priorities. Earmarking funds for a specific purpose reduces flexibility and limits the states' ability to be creative in their approach to sport fisheries management. We anticipate that the survey we are working on will have more specific information to address this question.

Question 3. Can you identify any state or states where the allocation of Sport Fish Restoration Account funds between freshwater and marine fish projects has not been in accordance with the law?

The Association is particularly pleased to report that we are aware of no such instance, and also pleased to hear that the US Fish and Wildlife Service, the primary monitor of the program, also reports no such violations. The working relationship between marine and freshwater divisions in the Wallop-Breaux program has been particularly effective and we do not anticipate any such problem.

Question 4. The Sport Fish Restoration Account will grow by \$30 to \$40 million in the next few years as a result of the increased gasoline tax. Should states be encouraged to use the increased funds for specific types of projects and, if so, what types of projects?

The Association has been pleased by the continual slow growth of the Wallop-Breaux fund and the recent increase is a welcome addition. The suggested changes proposed by ALAB will address much of the increases seen here, and the Association, in conjunction with ALAB, looks forward to working with you and the Committee on these changes.

There is a perception that the Fund is experiencing "runaway" increases. We would point out to the Committee that, with the effects of inflation and funds accruing to the newly created Wetlands Conservation Grants program, the expected increases are likely not as large as originally hoped for or generally believed. However, with increases to the Fund, the states are addressing a large number of innovative projects. For example, increased emphasis on aquatic resource education; urban fishing; research dealing with environmental effects on sport fisheries management; continued construction of fishing waters -- reservoirs, lakes and riparian areas; expansion of boating facilities to include pumpout facilities; and addressing the needs of disabled anglers and boaters is and will be a growing part of every state's Wallop-Breaux dollars.

Question 5. Should a portion of the Sport Fish Restoration Account funds which are set aside for the administration of the program be used to compile harvesting data for marine recreational fisheries necessary for their conservation and management?

Mr. Chairman, the States recognize that one of the significant weaknesses in the conservation of many marine fisheries is the lack of data to analyze the impact of recreational fishing. Many States have implemented programs to gather marine recreational fishing statistics. In addition, the National Marine Fisheries has designed the Marine Recreational Fisheries Survey. However, the lack of resources at the federal level has limited the effectiveness of the federal effort in many important fisheries. We believe that it is necessary to reemphasize the partnership between the States and the federal government in addressing recreational fisheries statistics. We also object to using funding from the Sport Fish Restoration Account to support ongoing substantive programs of federal agencies. For this reason, we believe that it would be appropriate to use Wallop-Breaux funds to support implementation of State responsibilities in a partnership program with the federal

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government; but would oppose transfer of these funds to support direct expenditures by NMFS. This would meet the needs of fishery managers while continuing the principle of using these funds to implement State fishery programs.

We appreciate having the opportunity to appear before you today and would be pleased to answer any questions you or other members of the Committee may have.

Edson International

The Edson Corporation
460 Industrial Park Road
New Bedford, MA 02745

Telephone: 508-995-9711
Facsimile: 508-995-5021

May 4, 1991

**TESTIMONY OF WILLIAM N. KEENE
PRESIDENT OF THE EDSON CORPORATION
BEFORE THE HOUSE SUB-COMMITTEE ON
FISHERIES AND WILDLIFE CONSERVATION
AND
THE ENVIRONMENT**

Mr. Chairman:

It is a pleasure to be invited to testify before your committee on HR 1297, The Clean Vessel Act of 1991.

I speak to you today as an individual who has perhaps a unique perspective on the subject of pumping out the holding tanks of recreational boaters. As president of The Edson Corporation I have tried for the past few years to sell Edson's line of pumps, which saw active duty in Desert Storm in similar applications, to marinas, yacht clubs, boatyards, and municipalities, with a minimum amount of success. I am an avid Striped Bass fisherman, member of The American Littoral Societies Fish Tagging Program, and lifetime recreational boater.

Three years ago during a summer vacation I visited Block Island, RI by boat and upon our arrival we were informed of the new mobile pump-out boat that was available to all boaters visiting Block Island. During this visit I was forced into using our vessel's holding tank system, which until this point had never been used. When the holding tank was full I called up Block Islands mobile pump-out boat. The pump-out boat pulled up alongside, plugged into our deck fitting and proceeded to empty our holding tank. The entire process took less than 5 minutes; it was faster and less of a hassle than adding fuel or water to a boat. I could not believe how fast and simple and clean the process was and I wondered why I had not used the holding tank on my boat before. The reason was simple; Block Island was the only place I knew of that provided the service of emptying holding tanks.

I, like every other recreational boater, do not think of myself as a polluter. However, I am not going to fill up my holding tank with waste when there is no way to empty.

Block Island has proven that people will use their holding tanks if there is a reasonable and

May 4, 1991

Page 2

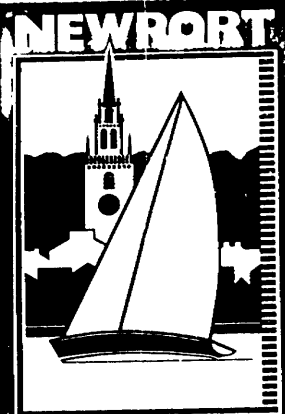
efficient way of emptying the tank when full. They pumped over 19,000 gallons of waste from boats during the 1990 season.

The Coalition for Buzzards Bay published a paper in November 1990 entitled "An Assessment of "Marine Pump-Out Facilities in Buzzards Bay". In that report they identified over 10,000 moorings and slips in Buzzards Bay and a total of 11 Pump-out facilities. One pump-out facility for 909 boats! The pump facilities that do exist are not spread out with one being located in every harbor. Seven of the 11 Pump-out facilities are located in the Town of Wareham, which does not have the highest concentration of boats.

In the last twelve months The Edson Corporation has worked with over 25 towns, marina, yacht clubs and private parties around the USA that are using pumps manufactured by Edson for the purpose of pumping out holding tanks. If we want people to use pump-out facilities we have to make it efficient, reasonable and convenient.

The Edson Corporation has been pumping waste since Jacob Edson, our founder, invented the Diaphragm Pump in 1859. We have been providing all interested parties with as much knowledge and experience about this subject as possible. We have been aggressive in our approach encouraging holding tank use to the thousands of boatowners we encounter each year at trade shows. However, funds for pump-out facilities are not available in most cases. In order for us to be successful in the war on waste we need some financial assistance. I strongly urge you to consider the positive impact you can have on our environment, and I believe you will see added acknowledgement by all Americans of the importance of proper and environmentally sound disposal of all wastes, with the passage of this bill.

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Block Island Aims For Clean Water

Chris Littlefield, Salt Pond harbormaster and a director of The Committee For The Great Salt Pond, lamented "Sailors and fishermen used to count on gathering quahogs, clammers and mussels when they came to Salt Pond." The committee is a nonprofit, environmental group

formed to control pollution and limit growth in and around this popular cruising destination on Rhode Island's Block Island. "But in 1966, because of the number of live-aboard boats and the potential for direct fecal contamination of shellfish, the Rhode Island Department of Environmental Management (DEM), based on Food and Drug Administration (FDA) standards, closed the pond to shellfishing during the summer months."

To know this harbor's topography is to understand its sensitivity to an onslaught of recreational mariners seeking in the Great Salt Pond precisely what they are unwittingly destroying — a pristine natural, seacoast environment. The Salt Pond and its inner arms constitute some 770 acres of water partially flushed twice a day by a three foot tide through an ever-stroking inlet that today is about 100 feet wide and 17 feet

deep. Partially flushed? It takes about two weeks to execute one complete change of water in the pond. Add to these statistics the fact that Great Salt Pond is the third busiest recreational harbor in New England — with as many as 2,000 boats visiting on a peak summer weekend, many of which still dispose of untreated waste directly over the side — and you have a body of water that stays polluted for at least three months. You also have what Littlefield labels "a clear conflict."

"Any rational being can see that the God given right of recreational boatowners is not to be able to flush heads indiscriminately," he continued. "But that the legacy for all of us is clean water in which to fish and swim."

Enter The Committee For The Great Salt Pond with its baker's dozen of direc-

torate two paid employees and 400 plus members from all over the U.S., Canada and Europe who cherish the privilege of visiting Block Island. The committee was the brainchild of concerned residents John Brotherhood and attorney Claire Costello in 1987.

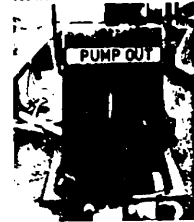
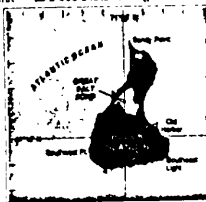
Tragically, the committee received a grant from a West Coast benefactor for Patagonia, the upscale expedition outfitting firm in Ventura, CA. "They

endorse our efforts and contribute to them based on our performance," says Littlefield. Patagonia's confidence has not been betrayed. Early last year, the committee received an Environmental Achievement Award from Save The Bay. Rhode Island's aggressive coastal conservation group for the concept and implementation of the Block Island Mobile Pumpout Station. "We are seeking an Environmental Protection Agency (EPA) designated no discharge classification for the Salt Pond," Littlefield told us, "and we've had to demonstrate our capacity to pump out the holding tanks of vessels that visit the Salt Pond."

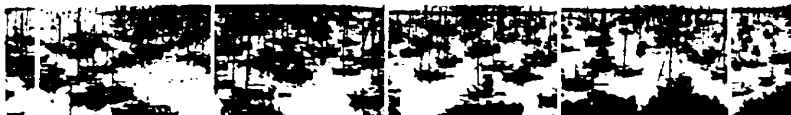
The floating pumpout facility was applauded by EPA Administrator William Reilly. Because all refuse must be carried off the island pre sorted, last summer the committee began educating boat borne visitors in the disciplines of recycling. Biodegradable, color-coded — for recyclable and non-recyclable refuse — bags on which local ordinances are printed were handed out free of charge.

So cruisers and sport fishermen could have a role in preserving one of their favorite retreats. Led by Costello, committee chair, the committee's legal defense fund has been funded to assist attorneys the committee considers threatened to the pond's shoreline. Any development proposed for the pond must be scrutinized by the committee. Last summer it was involved in four long hours including one opposing two multi-unit apartment buildings slated for construction on a 10-acre area which border the adjacent pond.

The committee recently has contributed significantly to the re-establishment of the pond's shoreline. Assisted on page 21.



The Edeon Corp. supplies the pump, fittings, connectors, and hoses for Block Island's free pumpout service.



At Block Island's Great Salt Pond, where as many as 2,000 boats may visit on a summer weekend, it takes about two weeks for a complete change of water to flow through a steadily shrinking inlet.

ment of bay scallops in the pond. Of primary importance to the committee is education of its constituency about issues relating to The Great Salt Pond. To that end last summer it sponsored a lecture series featuring noted marine biologists and environmentalists. A water testing program conducted by residents is a vital ingredient in the education process.

On Earth Day in April 1980 rallied by The Committee For The Great Salt Pond, some 800 volunteers tore down one third of Block Island's year-round population. "I picked up an estimated 30 tons of litter from the island's shores. Only 200 volunteers had been anticipated. But while development and litter greatly concern the

committee, unacceptable water quality disturbs its members most.

So much is at stake. The Salt Pond harbors one of the last viable winter flounder populations in the Northeast. It still provides shellfish as a clean baseline for Narragansett Bay studies. The National Marine Fisheries Service

uses Great Salt Pond muscels as environmental indicators in its research.

"A major goal is to bring shellfishing back in the summers," says Littlefield. "The only way we can do that is to clean up our waters. Shellfishing was a part of the lives of natives and visitors alike, and now it's gone. You can't put a

dollar value on that loss."

"Naturally we think of boating as a seasonal business out here," Littlefield continued. "But the sport that unwittingly threatens the pond continues 12 months a year around the country. It would be great if more people connected with the sport could get more involved."

Some in the marine industry already are involved. Two years ago Edison Corporation of New Bedford, MA helped the committee set up the plumbing, including one of three gasoline diaphragm pumps, aboard the 23-foot workboat that carries the floating tank pumpout system. Edison is paid far more than both private dollars. "It took us six years to comply with making six sound powered," says treasurer Will Keene. "We're in a good position to pay back that cost and lose. And that is just fine with me," Littlefield says. "It's a win-win situation." He says that as the Great Salt Pond goes, so goes the future of sailing, as we've all known it. ■

Sam Marsh

Cruisers Rally To Fight Pollution

Committee on the Environment of the Sea of the Cruising Club of America (CCA) The CCA, with stations and posts scattered around the U.S., created the committee in September 1976 to draft an official position regarding the marine environment. In January 1980 a

policy on pollution is supported by a Cruising Club Code was approved. In the words of CCA chairman Bob McNitt, "To make a difference in protecting the waters we have enjoyed so much and in helping preserve them for those who follow in our wake." ■

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TESTIMONY BY VERONICA FLOYD, FIRST VICE CHAIRMAN, AMERICAN LEAGUE OF ANGLERS AND BOATERS, ON H.R. 1297 AND IMPLEMENTATION OF THE SPORT FISH RESTORATION PROGRAM, MAY 9, 1991, BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON MERCHANT MARINE AND FISHERIES.

Mr Chairman and distinguished Members of Congress, it is a delight to appear before you today to talk about the important work of the Aquatic Resources Trust Fund. As you know well, the American League of Anglers and Boaters is a national organization comprised of more than 30 national entities representing the fishing, boating and conservation communities. ALAB members were actively involved in the creation of this program in 1984 and in amendments to the legislation in 1988 and 1990. I am serving as ALAB's First Vice Chairman this year, and I am accompanied today by Derrick Crandall, ALAB Chairman Emeritus. We deeply appreciate the energetic efforts of the Chairman and other members of this committee on this program over the past decade.

The Aquatic Resources Trust Fund has been a shining light of natural resources progress, a success story in which ALAB and certainly this committee deserve to take great pride. In its seven-year history, the Fund has undergone several evolutionary steps designed to focus its impact and respond to unexpected opportunities. And, the Fund has grown substantially; expenditures from the program will total an estimated \$350 million in Fiscal Year 1993!

Most of the recent growth in the Fund's size -- in 1987 and again in 1990 -- has been attributable to changes in the federal motorfuel tax contributions. First, the proportion of all federal motorfuel taxes attributable to motorboats was boosted, from .75% to 1.08%, following a study by the Department of the Treasury. Next, the tax rate on motorfuel was increased by 5¢ per gallon -- of which half was earmarked for deficit reduction purposes. Finally, fuel taxes attributable to lawnmowers, chainsaws, snowblowers and other small engine products used around the home were added to the account, and earmarked for wetlands restoration.

Through ALAB, the diverse supporters of the Fund have time and time again come to a consensus on ways to maintain an equitable balance among all of the important elements of the program. We deeply appreciate that this committee has both been an active participant in identifying needed changes and so energetic in achieving our shared objectives. It is time to do so once again.

We share the goal of Chairman Jones as expressed in H.R. 1297 in assuring the quality of the nation's surface waters. We also believe that further progress must be made in making recreational boating safer and the waters of our nation more accessible for the nation's tens of millions of anglers and boaters. In too many cases, permitting complications have made planned boating access projects impossible within the Act's current time limits.

These and other challenges have prompted ALAB to search for modifications to the existing program which would maintain an equitable balance of benefits to all contributors to the Fund and help achieve outstanding and cost-effective boating and fishing projects with the available funding.

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Thanks to the increased rate of federal taxation of motorfuels, inflation and other considerations, the Wallop-Breaux Fund is likely to grow substantially over the next 5 years. By FY96, changes in the key revenue sources for the Wallop-Breaux Fund are projected to result in an increase of nearly \$60 million in spending above expenditures during the current fiscal year -- above and beyond the new wetlands program expenditures.

The American League of Anglers and Boaters strongly believes that this increase in available funding should be carefully used to strengthen specific elements of the Aquatic Resources Trust Fund and appreciates the invitation extended in your letter of April 17 to comment on use of the additional available funding. We are pleased to offer the following objectives as tentative consensus of the ALAB membership which we would hope to finalize in discussions with you and your able staff:

- ◆ The current cap on the Boating Safety Account should be increased from the present level of \$70 million to \$80 million in FY93, to \$85 million for FY94 and FY95 and to \$90 million for subsequent years; 100% of the increase should go to boating safety assistance grants to the states. The set-aside for grants to national non-profit organizations should be increased from the present limit of 5% to a minimum of 5% and a maximum of 7% of the total available for grants to the states. The maximum allocation to any state from the Boating Safety Account would be capped at 8% of the available funding. The Commandant would be allowed to waive the state matching fund requirement for amounts up to \$100,000 per state on a "hardship" basis. ALAB further supports making the Boating Safety Account, like the Sportfish Restoration Account, subject to permanent appropriation.

- ◆ The present minimum spending requirement of 10% of each state's Sportfish Restoration Account allocation for boating access should be changed. First, the scope of projects should be redefined as "boating access and facilities," including marine sanitation device pump-out facilities, transient slips and other facilities serving larger boats, in addition to launching ramps and parking lots. Second, the minimum spending requirement should be boosted to 12½% of the apportioned funds for each state. Third, states need new flexibility to "pool" boating access and facility funding on a regional basis, somewhat like authority under the Clean Air Act. Specifically, states should be permitted to spend less than 12½% in any single year on boating access and facilities if either (1) it documents plans to average at least that amount during a 3-year period or (2) the state enters into an agreement with an adjacent or proximate state or states, the result being that the states will collectively invest at least 12½% of their total apportioned share on boating access and facilities. Fourth, states should be allowed to retain boating access and facility monies until expended, at the discretion of the Secretary, if permitting delays make prompt expenditures impossible. Fifth, any reverted boating project funds should be placed in a new subaccount controlled by the Secretary. This new account would be used to fund boating projects on a nation-wide competitive, merit-driven basis.

- ◆ ALAB will take an active role in efforts to review recreational boating-related water quality problems, especially in coastal areas and to assess strategies for mitigating such problems.

- ◆ ALAB will actively encourage improved intra-state agreements among state agencies serving fisheries and boating programs to overcome coordination problems involving boating access and facilities and a balanced fisheries effort, addressing both marine and freshwater program needs.

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We believe that these amendments to today's highly successful program would accomplish the goals of ALAB and this committee, including the Clean Vessel Act of 1991.

Mr. Chairman, the American League of Anglers and Boaters takes seriously its obligation to achieve a unified position of all major boating and fishing organizations regarding Aquatic Resources Trust Fund issues. Achieving this consensus is time-consuming and is not always possible. We have discussed the questions raised in your letter of April 18 and believe our testimony responds fully to question #4 and partially to several others. We would add the following initial responses to questions 1, 2, 3 and 5.

1) We believe that the installation of pump-out stations at private marinas is a necessary and appropriate expenditure of funds from the Aquatic Resources Trust Fund providing public access to the facility is guaranteed at a reasonable fee.

2) We are uncertain about the sufficiency of the waiver provision of H.R. 1297. As discussed with your staff, we are assisting in an expedited survey of water quality problems associated with recreational boating now scheduled to be completed within 60 days. We believe that the answer to this question will be answered with this survey.

3) We have no awareness of any states which are failing to abide by the provisions of the law regarding benefits to freshwater and marine fisheries projects.

5) ALAB is not prepared to take a formal position on the appropriateness of funding data collection required for administration of marine fisheries through the Aquatic Resources Trust Fund. While ALAB members believe the data collection is necessary, a majority of our organizations presently oppose funding of on-going federal activities through the Fund and support adequate annual appropriations through the Department of Commerce for the data collection by NOAA/NMFS.

Thank you for your consideration and continuing support.

Veronica Floyd
First Vice Chairman
American League of Anglers and Boaters
1331 Pennsylvania Avenue, NW, #726
Washington, D.C. 20004
(202) 662-7420

Final

Statement of Russell C. Scott
before the House Merchant Marine and Fisheries Committee
Subcommittee on Fisheries and Wildlife Conservation
and the Environment
on H.R. 1297, the Clean Vessel Act of 1991

May 9, 1991

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Russell C. Scott of Richmond, Virginia. I am a member of the boating community and have served as a member of the Recreational Boat Pollution Work Group of the Chesapeake Bay Program.

As a member of the boating community and a former member of the boat pollution work group I support H.R. 1297, the Clean Vessel Act of 1991. I would urge, however, that the bill be amended to expand the funding provisions to include "operation" of pump-out stations (in addition to installation and maintenance) and the funding of the installation of portable toilet dump stations. It has been suggested that anywhere between 25% to 50% of the boats that are over 24 feet in length but less than 30 feet in length are equipped with portable toilets, but few marinas provide dump stations and wash racks. The lack of such facilities leads the boater to flush his portable toilet wastes down a shoreside toilet, with the danger of poisoning the septic system or package treatment plant, or equally bad, dumping his accumulated wastes overboard.

In addition I would urge that the notification section of the bill be amended to add a paragraph to give guidance on supplying pump-out stations with fittings and adapters that will mate with the various sizes and types of discharge fittings on boats. I have been told of the frustration of a boater who has tied up for a pump-out only to discover that the pump-out hose is too large for the fitting on his boat.

Switching from the bill to the questions posed to me in a letter by Congressman Studds, I believe that the lack of pump-out facilities for boat holding tanks has degraded water quality in areas where boats tend to congregate on weekends and during the vacation months. If pump-out facilities are not conveniently located, adequate and available for use, and inexpensive to use, then boaters will simply switch their Y-valves from their holding tanks and discharge overboard in violation of federal regulations. The words adequate and available are important. I have seen state-approved pump-out systems that were of inadequate capacity. I have seen systems that were located so as to be inaccessible to the boats that needed them. I have seen systems that were inoperable for as long as an entire boating season and I have heard of pump-out operators charging from \$25 to \$50 for a pump-out.

Yes, the enactment of H.R. 1297 would improve the quality of the waters where boats congregate, but it would do a better job if there were safeguards that would set standards or guidelines

for capacities, location, number of units per marina, and maximum pump-out fees.

With respect to the advantages and disadvantages of funding pump-out facilities at private marinas I can only say that I believe it is in the public interest to fund such facilities at private marinas. In Virginia there are no state-owned marinas that I know of. There are a few municipal marinas and a number of unattended state-owned piers and launching ramps. If a boater wishes a pump-out he or she will, in almost all cases, have to rely on a private marina. The only problem I can see with funding facilities at a private marina is that of the competitive advantage given to one private operator who receives a government grant over another operator who has already invested his private funds into installing and operating his facility.

The waiver provision of H.R. 1297 appears adequate to ensure that no state will be required to build pump-out facilities that are not needed. As I see it, there is more of a problem that a state will underestimate the number of pump-out facilities needed. Boaters tend to use their boats at the same times: on weekends and, in particular, on three-day weekends. Unless there are sufficient pump-out facilities available for boats returning to their marinas on the last day of the weekend without undue delay the boats will not use the facilities and the local water quality will be degraded again.



NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

Please reply to:

Lt. Colonel Joel M. Brown
Dept. of Natural Resources
Law Enforcement
East Tower-Suite 1366
205 Butler St., SE
Atlanta, GA 30334

May 6, 1991

Representative Gerry E. Studds
Chairman, Fish and Wildlife Subcommittee
Room 543
House Annex 2
Washington, DC 20515

Dear Congressman Studds;

The purpose of this letter is to provide input from the National Association of State Boating Law Administrators into your Subcommittee hearing on HR-1297, a bill to amend the Dingell-Johnson Sport Fishing Restoration Act.

Public awareness, and rightfully so, is focused on the preservation of our priceless natural resource, "our waterways". The use of these waters satisfy the insatiable appetite of sport fishermen, the recreation boating enthusiast and those who desire to leave pressures behind to relax and absorb the tranquility of our waters and beaches. This public awareness will bring pressure on the States and the Federal Government to seek out and correct all sources of pollution with sewage from boats, as being addressed by HR-1297, being one of these pollutants.

More and more we hear of State Legislatures being concerned over the increasing number of vessels having marine toilets which are operated or moored on our nations waterways. Their concern is for the protection of the public health, safety and welfare and feel that it is necessary to prohibit the discharge of sewage from such vessels into our waterways in order to enhance the quality of these waters.

HR-1297, in our Association's opinion, addresses this area of vital concern to the boat owner and the public at large. We especially like the waiver provision allowing those states with adequate pump-out stations or where the

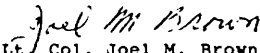
page 2

discharge of sewage from vessels is not a significant contributor to the degradation of the water quality within the state to seek relief from the requirements of this bill.

Our Association is a member of the American League of Anglers and Boaters and support their position in working with the Committee staff to ascertain the scope of the problem, inventory of existing pump-out stations etc. Hopefully information provided to your Subcommittee will further strengthen and refine HR-1297.

In summary, the National Association of State Boating Law Administrators are pleased to provide input into your hearing on this important legislation, and further request that this letter be made part of the hearing record.

Sincerely,


Lt. Col. Joel M. Brown, President
National Association of
State Boating Law Administrators

JMB/GWS/cs

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